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POST-CONFIRMATION TRUST

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;)	CIVIL NO. CV03-00385 SOM-LEK
)	(Copyright)
Plaintiff,)	
)	DECLARATION OF MARTIN
vs.)	WALKER; EXHIBIT "A"
)	
HAWAIIAN EXPRESS SERVICE,)	
INC., et al.,)	
)	
Defendants.)	
_____)	

DECLARATION OF MARTIN WALKER

Martin Walker, under penalty of perjury, declares as follows:

1. I have been retained as an expert consultant by the Post-Confirmation Trust for Fleming Companies, Inc. My qualifications are on file with the Court.
2. On Sunday, January 22, 2005, Lex Smith asked me to compare the contents of a Seagate external disk drive that he received from Mr. Hogan (the "Hogan Files") to the contents of the disk drive that I received several months ago containing the "Before" files which I understand were produced by Guidance Software (the "Before Files"). Mr. Smith also provided me a copy of his privilege log dated November 2, 2005 ("Privilege Log") a copy of which is attached hereto as Exhibit "A."
3. There are 2,979 files on the Before Files that are not on either (a) the Hogan Drive; or (b) the Privilege Log. I have created a DVD with each of these files on it and I understand that Mr. Smith has provided that DVD to Mr. Hogan.
4. Except for the files described immediately above, all of the Before Files are also contained in the Hogan Files.
5. There are numerous duplicates on both the Before Files and the Hogan Files. Any discrepancy in the number of files on each drive results

from the fact that in some cases the number of duplicates is different on the two drives. However, except for the files identified in paragraph 3, every file in the Before Files is also in the Hogan Files or on the Privilege Log.

5. Thus, the Hogan Drive, plus the DVD described in paragraph 3 above contains 100% of the Before Files except those listed on the Privilege Log prepared by Mr. Smith.

6. I have reviewed the list of 2,979 files that are not on the Hogan Drive, and I am confident that I never opened or examined the contents of any of them in the course of any of the forensic work I have done in this case.

7. I have reviewed the Privilege Log and I am confident that I did not open or examine the contents of any of them in the course of any of the forensic work I have done in this case.

8. In late September or early October of 2005, Mr. Smith sent me an external disk drive and asked me to confirm whether it contained 100% of the Before Files, except for the files listed on his privilege log. I did so and confirmed that the disk drive that was sent to me indeed was only missing the files listed on the Privilege Log.

I declare under penalty of perjury that the statements made herein are true and correct to the best of my knowledge, information and belief.

DATED: Honolulu, Hawaii, January 23, 2006.


MARTIN WALKER